

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 888**

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**Introduced by Senator Perata Torlakson**

February 23, 2007

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~~An act to amend Section 60900 of the Education Code, relating to pupil data.~~ *An act to amend Sections 17071.75 and 52055.740 of the Education Code, relating to school facilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 888, as amended, ~~Perata Torlakson. California Longitudinal Pupil Achievement Data System.~~ *School facilities: class size.*

*The Quality Education Investment Act of 2006 authorizes school districts and other local educational agencies to apply to the Superintendent of Public Instruction to receive funding to allocate to elementary and secondary schools and charter schools that are ranked in either decile 1 or 2 on the 2005 Academic Performance Index for use in performing various specified measures to improve academic instruction and pupil academic achievement. Participating schools, as defined, that receive funding are required to comply with various program requirements. County superintendents of schools are required to annually review participant schools and their data to determine compliance with the program requirements and to notify the Superintendent if schools fail to satisfy those requirements. One requirement prescribes class size for classes in English language arts, reading, mathematics, science, or history and social science courses in grades 4 to 12, inclusive, and sets forth the method for calculating average class size.*

*The Leroy F. Greene School Facilities Act of 1998 requires the State Allocation Board to allocate to applicant school districts prescribed*

*per-unhoused-pupil state funding for construction and modernization of school facilities. The act requires the board to determine an applicant's maximum total new construction grant eligibility under a specified calculation.*

*This bill would exclude from the calculation of average class size for purposes of the Quality Education Investment Act of 2006, a class for which funding is received pursuant to the Program to Reduce Class Size in Two Courses in Grade 9. It also would exclude from the calculation used to determine an applicant's maximum total new construction grant eligibility under the Leroy F. Greene School Facilities Act of 1998, facilities acquired exclusively for the purpose of complying with the class size requirements of the Quality Education Investment Act of 2006.*

~~Existing law requires the State Department of Education to contract for the development of the California Longitudinal Pupil Achievement Data System to provide for the retention and analysis of pupil achievement data on specified tests.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 17071.75 of the Education Code is
- 2     amended to read:
- 3     17071.75. After a one-time initial report of existing school
- 4     building capacity ~~has been~~ is completed, the ongoing eligibility
- 5     of a school district for new construction funding shall be
- 6     determined by making all of the following calculations:
- 7     (a) A school district that applies to receive funding for new
- 8     construction shall use the following methods to determine projected
- 9     enrollment:
- 10    (1) A school district that has two or more schoolsites each with
- 11    a pupil population density that is greater than 115 pupils per acre
- 12    in kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil
- 13    population density that is greater than 90 pupils per acre in grades
- 14    7 to 12, inclusive, as determined by the Superintendent using
- 15    enrollment data from the California Basic Educational Data System
- 16    for the 2004–05 school year, may submit an application for funding

for projects that will relieve overcrowded conditions. That school district may also submit an alternative enrollment projection for the fifth year beyond the fiscal year in which the application is made using a methodology other than the cohort survival method as defined by the board pursuant to paragraph (2), to be reviewed by the Demographic Research Unit of the Department of Finance, in consultation with the department and the Office of Public School Construction. If the Office of Public School Construction and the Demographic Research Unit of the Department of Finance jointly determine that the alternative enrollment projection provides a reasonable estimate of expected enrollment demand, a recommendation shall be forwarded to the board to approve or disapprove the application, in accordance with all of the following:

(A) Total funding for new construction projects using this method shall be limited to five hundred million dollars (\$500,000,000), from the Kindergarten-University Public Education Facilities Bond Act of 2004.

(B) The eligibility amount for proposed projects that relieve overcrowding is the difference between the alternative enrollment projection method for the year the application is submitted and the cohort survival method, as defined by paragraph (2), for the same year, adjusted by the existing pupil capacity in excess of the projected enrollment according to the cohort survival projection method.

(C) The Office of Public School Construction shall determine whether each proposed project will relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, and recommend approval to the board. The number of unhoused pupil grants requested in the application for funding from the eligibility determined pursuant to this paragraph shall be limited to the number of seats necessary to relieve overcrowding, including, but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or busing in excess of 40 minutes, less the number of unhoused pupil grants attributed to that school as a source school in an approved application pursuant to Section 17078.24.

(D) A school district shall use the same alternative enrollment projection methodology for all applications submitted pursuant to this paragraph and shall calculate those projections in accordance

1 with the same districtwide or high school attendance area used for  
2 the enrollment projection made pursuant to paragraph (2).

3 (2) A school district shall calculate enrollment projections for  
4 the fifth year beyond the fiscal year in which the application is  
5 made. Projected enrollment shall be determined by utilizing the  
6 cohort survival enrollment projection system, as defined and  
7 approved by the board. The board may supplement the cohort  
8 survival enrollment projection by the number of unhoused pupils  
9 that are anticipated as a result of dwelling units proposed pursuant  
10 to approved and valid tentative subdivision maps.

11 (b) (1) Add the number of pupils that may be adequately housed  
12 in the existing school building capacity of the applicant school  
13 district as determined pursuant to Article 2 (commencing with  
14 Section 17071.10) to the number of pupils for whom facilities were  
15 provided from any state or local funding source, *except facilities*  
16 *acquired exclusively for the purpose of complying with paragraph*  
17 *(1) of subdivision (a) of Section 52055.740*, after the existing school  
18 building capacity was determined pursuant to Article 2  
19 (commencing with Section 17071.10). For this purpose, the total  
20 number of pupils for whom facilities were provided shall be  
21 determined using the pupil loading formula set forth in Section  
22 17071.25.

23 (2) Subtract from the number of pupils calculated in paragraph  
24 (1) the number of pupils ~~that~~ *who* were housed in facilities to which  
25 the school district or county office of education relinquished title  
26 as the result of a transfer of a special education program between  
27 a school district and a county office of education or special  
28 education local plan area, if applicable. For this purpose, the total  
29 number of pupils ~~that~~ *who* were housed in the facilities to which  
30 title was relinquished shall be determined using the pupil loading  
31 formula adopted by the board pursuant to subparagraph (B) of  
32 paragraph (2) of subdivision (a) of Section 17071.25. For purposes  
33 of this paragraph, title also includes any lease interest with a  
34 duration of greater than five years.

35 (c) Subtract the number of pupils pursuant to subdivision (b)  
36 from the number of pupils determined pursuant to paragraph (2)  
37 of subdivision (a).

38 (d) The calculations required to establish eligibility under this  
39 article shall result in a distinction between the number of existing  
40 unhoused pupils and the number of projected unhoused pupils.

1 (e) Apply the increase or decrease resulting from the difference  
2 between the most recent report made pursuant to Section 42268,  
3 and the report used in determining the baseline capacity of the  
4 school district pursuant to subdivision (a) of Section 17071.25.

5 (f) For purposes of calculating projected enrollment pursuant  
6 to subdivision (a), the board may adopt regulations to ensure that  
7 the enrollment calculation of individuals with exceptional needs  
8 receiving special education services is adjusted in the enrollment  
9 reporting period in which the transfer occurs and three previous  
10 school years as a result of any transfer of a special education  
11 program between a school district and a county office of education  
12 or a special education local plan area. However, the projected  
13 enrollment calculation of a county office of education shall only  
14 be adjusted if a transfer of title for the special education program  
15 facilities has occurred. The regulations, if adopted, shall ensure  
16 that if a transfer of title to special education program facilities  
17 constructed with state funds occurs within 10 years after initial  
18 occupancy of the facility, the receiving school district or school  
19 districts shall remit to the state a proportionate share of any  
20 financial hardship assistance provided for the project pursuant to  
21 Section 17075.10, if applicable.

22 (g) For a school district with an enrollment of 2,500, or less, an  
23 adjustment in enrollment projections shall not result in a loss of  
24 ongoing eligibility to that school district for a period of three years  
25 from the date of the approval of eligibility by the board.

26 *SEC. 2. Section 52055.740 of the Education Code is amended*  
27 *to read:*

28 52055.740. (a) For each funded school, the county  
29 superintendent of schools for the county in which the school is  
30 located shall annually review the school and its data to determine  
31 if the school has met all of the following program requirements  
32 by the school by the end of the third full year of funding:

33 (1) Meet all of the following class size requirements:

34 (A) For kindergarten and grades 1 to 3, inclusive, no more than  
35 20 pupils per class, as set forth in the Class Size Reduction Program  
36 (Chapter 6.10 (commencing with Section 52120)).

37 (B) For self-contained classrooms in grades 4 to 8, inclusive,  
38 an average ~~classroom~~ class size that is the lesser of clause (i) or  
39 (ii), as follows:

1 (i) At least five pupils fewer per ~~classroom~~ *class* than was the  
2 average in 2006–07.

3 (ii) An average of 25 pupils per ~~classroom~~ *class*.

4 (iii) For purposes of this subparagraph, average ~~classroom~~ *class*  
5 size shall be calculated at the grade level based on the number of  
6 self-contained classrooms in that grade at the schoolsite. If the  
7 self-contained classrooms at the school averaged fewer than 25  
8 pupils per ~~classroom~~ *class* during the 2005–06 school year, that  
9 lower average shall be used as the “average in 2006–07” for  
10 purposes of this subparagraph. A school that receives funding  
11 under this article shall not have a self-contained classroom in  
12 grades 4 to 8, inclusive, with more than 27 pupils regardless of its  
13 average ~~classroom~~ *class* size.

14 (C) For classes in English language arts, reading, mathematics,  
15 science, or history and social science courses in grades 4 to 12,  
16 inclusive, *except classes for which funding is received pursuant*  
17 *to Chapter 6.8 (commencing with Section 52080)*, an average  
18 ~~classroom~~ *class* size that is the lesser of clause (i) or (ii), as follows:

19 (i) At least five pupils fewer per ~~classroom~~ *class* than was the  
20 average in 2006–07.

21 (ii) An average of 25 pupils per ~~classroom~~ *class*.

22 (iii) For purposes of this subparagraph, average ~~classroom~~ *class*  
23 size shall be calculated ~~at the grade level~~ based on the number of  
24 subject-specific ~~classrooms in that grade~~ *classes* at the schoolsite.  
25 If the subject-specific ~~classrooms~~ *classes* at the school averaged  
26 fewer than 25 pupils per ~~classroom~~ *class* during the 2005–06 school  
27 year, that lower average shall be used as the “average in 2006–07”  
28 for purposes of this subparagraph. A school that receives funding  
29 under this article shall not have a class in English language arts,  
30 reading, mathematics, science, or history and social science in  
31 grades 4 to 12, inclusive, with more than 27 pupils regardless of  
32 its average ~~classroom~~ *class* size.

33 (D) Not increase any other class sizes in the school above the  
34 size used during the 2005–06 school year. If a funded school has  
35 a low-enrollment innovative class, it may increase the number of  
36 pupils in that class to a number that does not exceed the schoolwide  
37 average.

38 (2) In high schools, have a pupil-to-counselor ratio of no more  
39 than 300 to 1. Each counselor shall hold a services credential with

1 a specialization in pupil personnel services issued by the  
2 Commission on Teacher Credentialing.

3 (3) Ensure that each teacher in the school, including intern  
4 teachers, shall be highly qualified in accordance with the federal  
5 No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

6 (4) Using the index established under Section 52055.730, have  
7 an average experience of classroom teachers in the school equal  
8 to or exceeding the average for the school district for this type of  
9 school.

10 (5) Exceed the API growth target for the school averaged over  
11 the first three full years of funding. Beginning in the fifth year of  
12 participation, funded schools shall meet their annual API growth  
13 targets. If the school fails to meet its annual growth target, the  
14 school shall continue to receive funding pursuant to this article,  
15 but shall be subject to state review, assistance, and timeline  
16 requirements pursuant to the HPSGP under Section 52055.650.  
17 The schoolsite administrator shall not automatically be reassigned  
18 based solely on that failure.

19 (b) For each funded school, the county superintendent of schools  
20 for the county in which the school is located shall annually review  
21 the school and its data to determine if the school has met all of the  
22 following interim requirements:

23 (1) Be at least one-third of the way toward meeting each of the  
24 program requirements specified in paragraphs (1) to (5), inclusive,  
25 of subdivision (a) by the end of the first full year of funding.

26 (2) Be at least two-thirds of the way toward meeting each of  
27 the program requirements specified in paragraphs (1) to (5),  
28 inclusive, of subdivision (a) by the end of the second full year of  
29 funding, and achieve full implementation by the end of the third  
30 full year and for each year thereafter.

31 (3) Have provided professional development to at least one-third  
32 of teachers and instructional paraprofessionals in the school  
33 annually.

34 (4) Meet all of the requirements of the settlement agreement in  
35 Williams v. State of California (Case Number CGC-00-312236 of  
36 the Superior Court for the County of San Francisco), including,  
37 among other things, the requirements regarding teachers,  
38 instructional materials, and school facilities, by the end of the first  
39 full year of funding, and in each year of funding thereafter.

(c) (1) If a county superintendent of schools determines that a funded school has not substantially met the requirements of subdivision (b) after the first or second full year of funding, or any alternative program requirements approved under Section 52055.760, he or she shall notify the Superintendent. If all of the interim and final requirements are not met by the end of any subsequent school year, the Superintendent shall terminate funding for that school.

(2) If the Superintendent terminates funding under this subdivision, the Superintendent shall provide advance notice to the district that is sufficient to allow the district a reasonable amount of time to make staff and other cost adjustments necessitated by the termination. The Superintendent shall provide the district with funds sufficient to cover the staff and other cost adjustments.

(d) A school district or chartering authority that includes a participating school or schools for which funding is terminated pursuant to subdivision (c) may appeal that action to the ~~state board~~ *State Board*. The ~~state board~~ *State Board* shall order the reinstatement of funding if, on appeal, the school district or chartering authority demonstrates that the data upon which the county superintendent of schools relied is in error and that the school in question can fully demonstrate its compliance with the applicable requirements.

~~SECTION 1. Section 60900 of the Education Code is amended to read:~~

~~60900. (a) The department shall contract for the development of proposals that will provide for the retention and analysis of longitudinal pupil achievement data on the tests administered pursuant to Chapter 5 (commencing with Section 60600), Chapter 7 (commencing with Section 60810), and Chapter 9 (commencing with Section 60850). The longitudinal data shall be known as the California Longitudinal Pupil Achievement Data System.~~

~~(b) The proposals developed pursuant to subdivision (a) shall evaluate and determine whether it would be most efficient, from both a fiscal and a technological perspective, for the state to own the system. The proposals additionally shall evaluate and determine the most effective means of housing the California Longitudinal Pupil Achievement Data System.~~



1 ~~(e) The California Longitudinal Pupil Achievement Data System~~  
2 ~~shall be developed and implemented in accordance with all state~~  
3 ~~rules and regulations governing information technology projects.~~

4 ~~(d) The system or systems developed pursuant to this section~~  
5 ~~shall be used to accomplish all of the following goals:~~

6 ~~(1) To provide school districts and the department access to~~  
7 ~~data necessary to comply with federal reporting requirements~~  
8 ~~delineated in the federal No Child Left Behind Act of 2001 (20~~  
9 ~~U.S.C. Sec. 6301 et seq.).~~

10 ~~(2) To provide a better means of evaluating educational progress~~  
11 ~~and investments over time.~~

12 ~~(3) To provide local educational agencies information that can~~  
13 ~~be used to improve pupil achievement.~~

14 ~~(4) To provide an efficient, flexible, and secure means of~~  
15 ~~maintaining longitudinal statewide pupil level data.~~

16 ~~(e) In order to comply with federal law as delineated in the~~  
17 ~~federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301~~  
18 ~~et seq.), the local educational agency shall retain individual pupil~~  
19 ~~records for each test taker, including all of the following:~~

20 ~~(1) All demographic data collected from the STAR Program~~  
21 ~~test, high school exit examination, and English language~~  
22 ~~development tests.~~

23 ~~(2) Pupil achievement data from assessments administered~~  
24 ~~pursuant to the STAR Program, high school exit examination, and~~  
25 ~~English language development testing programs. To the extent~~  
26 ~~feasible, data should include subscore data within each content~~  
27 ~~area.~~

28 ~~(3) A unique pupil identification number to be identical to the~~  
29 ~~pupil identifier developed pursuant to the California School~~  
30 ~~Information Services, which shall be retained by each local~~  
31 ~~educational agency and used to ensure the accuracy of information~~  
32 ~~on the header sheets of the STAR Program tests, high school exit~~  
33 ~~examination, and the English language development test.~~

34 ~~(4) All data necessary to compile reports required by the federal~~  
35 ~~No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.),~~  
36 ~~including, but not limited to, dropout and graduation rates.~~

37 ~~(5) Other data elements deemed necessary by the~~  
38 ~~Superintendent, with approval of the State Board, to comply with~~  
39 ~~the federal reporting requirements delineated in the federal No~~  
40 ~~Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), after~~

1 review and comment by the advisory board convened pursuant to  
2 subdivision (h):

3 (f) The California Longitudinal Pupil Achievement Data System  
4 shall have all of the following characteristics:

5 (1) The ability to sort by demographic element collected from  
6 the STAR Program tests, high school exit examination, and English  
7 language development test.

8 (2) The capability to be expanded to include pupil achievement  
9 data from multiple years.

10 (3) The capability to monitor pupil achievement on the STAR  
11 Program tests, high school exit examination, and English language  
12 development test from year to year and school to school.

13 (4) The capacity to provide data to the state and local educational  
14 agencies upon their request.

15 (g) Data elements and codes included in the system shall comply  
16 with Sections 49061 to 49079, inclusive, and Sections 49602 and  
17 56347, with Sections 430 to 438, inclusive, of Title 5 of the  
18 California Code of Regulations, with the Information Practices  
19 Act of 1977 (Chapter 1 (commencing with Section 1798) of Title  
20 1.8 of Part 4 of Division 3 of the Civil Code), and with the federal  
21 Family Education Rights and Privacy Act (20 U.S.C. Sec. 1232g),  
22 Section 1242h of Title 20 of the United States Code, and related  
23 federal regulations.

24 (h) The department shall convene an advisory board consisting  
25 of representatives from the state board, the Secretary for Education,  
26 the Department of Finance, the State Privacy Ombudsman, the  
27 Legislative Analyst's Office, representatives of parent groups,  
28 school districts, and local educational agencies, and education  
29 researchers to establish privacy and access protocols, provide  
30 general guidance, and make recommendations relative to data  
31 elements. The department is encouraged to seek representation  
32 broadly reflective of the general public of California.

33 (i) Subject to funding being provided in the annual Budget Act,  
34 the department shall contract with a consultant for independent  
35 project oversight. The Director of Finance shall review the request  
36 for proposals for the contract. The consultant hired to conduct the  
37 independent project oversight biannually shall submit a written  
38 report to the Superintendent, the state board, the advisory board,  
39 the Director of Finance, the Legislative Analyst, and the  
40 appropriate policy and fiscal committees of the Legislature. The

1 ~~report shall include an evaluation of the extent to which the~~  
2 ~~California Longitudinal Pupil Achievement Data System is meeting~~  
3 ~~the goals described in subdivision (d) and recommendations to~~  
4 ~~improve the data system in ensuring the privacy of individual pupil~~  
5 ~~information and providing the data needed by the state and school~~  
6 ~~districts.~~

7 ~~(j) This section shall be implemented using federal funds~~  
8 ~~received pursuant to the federal No Child Left Behind Act of 2001~~  
9 ~~(20 U.S.C. Sec. 6301 et seq.), which are appropriated for purposes~~  
10 ~~of this section in Item 6110-113-0890 of Section 2.00 of the Budget~~  
11 ~~Act of 2002 (Chapter 379 of the Statutes of 2002). The release of~~  
12 ~~these funds is contingent on approval of an expenditure plan by~~  
13 ~~the Department of Finance.~~

14 ~~(k) For purposes of this chapter, a local educational agency shall~~  
15 ~~include a county office of education, school district, or charter~~  
16 ~~school.~~